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NATHANIEL HAWTHORNE

Attorney at Law/Consultant

Admitted in Ohio, Illinois and the District of Columbia

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NOV 10 2003

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www.telecomlawyer.com

email: nhawthorne@earthlink.net

27600 Chagrin Boulevard •

Suite 260

Cleveland, OH 44122

(216) 514-3336

fax (216) 514-3337

Express Mail ER370164993US

**Appeal, and request for Expedited Relief, to the Federal
Communications Commission on behalf of Cambria Heights
School District**

November 5, 2003

Secretary
Office of the Secretary
Federal Communications Commission
445 - 12th Street, S W , Rm TW-204B
Washington, D C 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.
Please time stamp the extra copy and return it to me in the enclosed self addressed-
stamped envelope.

Nathaniel Hawthorne

Nathaniel Hawthorne
Attorney for Cambria Heights School District

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NOV 10 2003

FCC - MAILROOM

Express Mail ER370164993US

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of the)	File No. SLD -
)	
Appeal of the Decision of the)	
)	
Universal Service Administrator by)	
the)	
)	
Cambria Heights School District)	
)	
)	
)	CC Docket No. 96 - 45
Federal-State Joint Board on)	
Universal Service)	
Changes to the Board of Directors of)	
The National Exchange Carrier)	
Association, Inc.)	CC Docket No. 97 - 21

Appeal
and
Request for Expedited Relief
on behalf of the
Cambria Heights School District

November 5, 2003

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S W Suite TW-A325
Washington, D C 20554

5.11

This is an appeal from a decision by the Schools and Libraries Division of the USAC

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self-addressed-stamped envelope.

(1) **Funding Commitment Decision Letter Appealed**

Form 471 Application Number	340796
Funding Year 2003	07/01/2003-06/30/2004
Billed Entity Number	125607
Date of Funding Denial Notice	October 21, 2003
Date of Appeal	November 4, 2003

(2) **SLD Contact Information**

- (a) Currie A. Sutton
27600 Chagrin Blvd, Ste 260
Cleveland, OH 44122
Tel (216) 682-0169
Fax (216) 514-3337
- (b) Nathaniel Hawthorne, Attorney (To discuss this Appeal)
27600 Chagrin Blvd, Ste 265
Cleveland, OH 44122
Tel (216) 514-4798

(3) **Funding Request Numbers Appealed**

FRN --940773, FRN- 940789, FRN - 940810

(4) **SLD's Reason for Funding Denial of FRN 940773**

The SLD stated that funding is denied because.

“30% or more of this FRN includes a request for unsubstantiated charges which are ineligible per program rules.”

(5) **The “30% rule” was incorrectly applied by the SLD.**

- a) The Cambria Heights School District (Cambria) prepared and timely filed a FCC Form 471 for telecommunications service with Verizon-Pennsylvania, Inc. as the vendor. Out of the requested \$42,000.00 for local service annually, the SLD claims that the 30% ineligible services consisted of a \$7.63 late fee for telephone # 814-344-8506, \$.87 late fee for 814-247-8828, and \$.27 for 814-344-2117. (Cambria requested \$42,000.00 annually, Cambria substantiated \$29,356.08.)
- b) **Exhibit A** is the “billing” that Cambria submitted to the SLD.
- c) While the District’s request for funding was based on anticipated (estimated) telecommunications usage, Cambria’s expenses should have been reduced rather than denied.
- d) The FCC’s 30% rule provides, *in relevant part*, “[i]f 30% or more of the dollar amount of the request in Form 471 Block 5 Item 23K is for ineligible services (including services for ineligible entities or uses), the PIA team will deny the entire Block 5 funding request, even if eligible components are part of the request. If less than 30% of the dollar amount of the request in Form 471 Block 5 Item 23K is for ineligible services, the PIA team will reduce the request by the cost of the ineligible components, and the Funding Commitment Decision Letter will cite the ineligible services for which funds were not committed. If the request is reduced, applicants and service providers must ensure that the SLD is not invoiced for the ineligible items.
- [Emphasis added.] **Here, there are no ineligible expenses, (30%) included in Cambria’s USF request.**

- c) Regarding **FRN-940789**, the amount Applicant requested was \$1,485 per month, Applicant substantiated \$1,290.00 per quarter and there were no ineligible expenses Exhibit B
- f) Regarding **FRN-940810** the amount Applicant requested was \$1,485 per month, but substantiated \$147.40 per quarter. There were no ineligible expenses Exhibit C
- g) Based on the 30% rule and the attached exhibits, there is no factual basis for any of the denials

Conclusion:

Cambria is Requesting the Following Action by the FCC:

- (a) **Within 90 days or less Order funding for the telecommunications services requested in the 471 Application, specifically FRN-940773, FRN-940789, and FRN-940810**
- (b) **Set aside funds to totally fund Cambria's request**

Respectfully submitted,



Nathaniel Hawthorne

District of Columbia Bar No 237693
27600 Chagrin Blvd, Ste 265
Cleveland, OH 44122
tel 216/514 4798
e-mail nhawthorne@earthlink.net
Attorney for
Cambria Heights School District

EXHIBIT A

FAX COVER SHEET

**To: Jaime L. Terraciano, Initial Reviewer
SLD**

Fax: 973-599-6523

From: Currie A. Sutton

Date: 4-16-2003

Pages: 17 (Including Cover)

RE: Cambria Heights School District, Application No. 340796

Attached is the information you requested on the FRNs associated with the above-captioned application.

**FRN 940773 – Pages 1 to 8
FRN 940781 – Pages 9 to 12
FRN 940789 – Page 13
FRN 940802 – Pages 14 to 15
FRN 940810 – Page 16**

Please cancel FRN 940797.

**Currie A. Sutton, email: curries@ameritech.net
Tel: 216.682.0169 Fax: 216.514.3337**

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 Page 4 of 7
 814 674-3601-575 70Y
Summary of your account

February 7, 2003

 CAMBRIA HEIGHTS
 SENIOR HIGH SCHL
 RR
 PATTON PA 16868
Charges from last month

Amount of your last bill.....	\$812.57	
Payments credited through Feb 10.....	-812.57	
Amount you still owe		\$.00

Charges for this month

Our charges-See Page 4	\$927.98	
Call, 1 800-700-8297 if you have a question		
Total for this month.....Due Date Mar 5		\$927.98

Total amount due

\$927.98

 A late payment charge of 1.25% applies to any
 balance carried forward to next month's bill.

Continued


 Page 4 of 47
 814 674-3601-575 70Y
Verizon charges

February 7, 2003

This month's charges	Monthly charges Feb 7 to Mar 6 ..	\$541.70
	Local Number Portability Surcharge ..	+4.60
	Federal Universal Service Fund Surcharge...	+6.90
	Local calling See Page 6	+182.81
	Verizon tolls See Page 8	+160.73
Directory assist.	2 calls in 814 area code @ .57ea	+1.14
National Directory Assistance	3 calls @ .95 each	+2.85
Pa. Relay surcharge		+2.25
Public Safety Emergency Telephone Act (9-1-1) Fee		+25.00
Total for our charges		\$927.98

Continued


 Page 6 of 47
 814 674-3601-575 70Y
Local calling

February 7, 2003

 These are charges for calls not included in your Measured local
 calling option(s). Please refer to the customer guide in your
 telephone book for rate information and discounted periods.

Listing of your calls	Area	Rate	Calls	Minutes	Cost
	1	Day	10	Untimed	.65
			Subtotal		.65
			Allowance		-40.00

(1)

Continued



Page 2 of 18
814 674-6290-650 77Y

Summary of your account

February 7, 2003

CAMBRIA HEIGHTS SCHOOL
506 BEECH AVE
PATTON PA 16868-1310

Charges from last month

Amount of your last bill..... \$428.16
Payments credited through Feb 10..... -428.16
Amount you still owe \$0.00

Charges for this month

Our charges-See Page 4 \$462.53
Call 1 800-700-8297 if you have a question
Total for this month.....Due Date Mar 5 \$462.53

Total amount due

\$462.53

A late payment charge of 1.25% applies to any
balance carried forward to next month's bill.

Continued



Page 4 of 18
814 674-6290-650 77Y

Verizon charges

February 7, 2003

This month's charges Monthly charges Feb 7 to Mar 6 .. \$380.85
Local Number Portability Surcharge .. +3.45
Federal Universal Service Fund Surcharge ... +9.30
Local calling See Page 5 +44.78
Verizon tolls See Page 6 +.00

Directory assist. 5 calls in 814 area code @ .57ea +2.85
1 call completed @ .30 each +.30

Pa. Relay surcharge +2.25

Public Safety Emergency Telephone Act (9-1-1) Fee +18.75

Total for our charges \$462.53

Payment arrangements or payment information? In Pa. call toll free
1 800-700-8297; out of Pa. call 1 800-700-8297. All other calls or
questions, in Pa. call toll free 1 800-700-8297; out of Pa. call
1 800-700-8297



Page 5 of 18
814 674-6290-650 77Y

Local calling

February 7, 2003

These are charges for calls not included in your Measured local
calling option(s). Please refer to the customer guide in your
telephone book for rate information and discounted periods.

Listing of your calls	Area	Rate	Calls	Minutes	Cost
	1	Day	1550	Untimed	100.77
		Nite/wknd	246	Untimed	16.01
		Subtotal			116.78
		Allowance			-72.00

Total for local calling

\$44.78

Call 1 800-700-8297 if you have a question.

2

Page 2 of 15
814 674-3626-298 73YSummary of your account

February 7, 2003

CAMBRIA HEIGHTS SCHOOL
506 BEECH AVE
PATTON PA 16668-1310Charges from last month

Amount of your last bill.....	\$259.57	
Payments credited through Feb 10.....	-259.57	
Amount you still owe.....		\$.00

Charges for this month

Our charges-See Page 4	\$259.55	
Call 1 800-700-8297 if you have a question		
Total for this month....Due Date Mar 5		\$259.55

Total amount due

\$259.55

A late payment charge of 1.25% applies to any
balance carried forward to next month's bill.

Continued

Page 4 of 15
814 674-3626-298 73YVerizon charges

February 7, 2003

This month's charges	Monthly charges Feb 7 to Mar 6 ..	\$244.97
	Local Number Portability Surcharge ..	+1.84
	Federal Universal Service Fund Surcharge ...	+1.84
	Local callingSee Page 5	+0.00
	Verizon tollsSee Page 7	+0.00

Pa. Relay surcharge		+0.90
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Public Safety Emergency Telephone Act (9-1-1) Fee		+10.00
---	--	--------

Total for our charges		\$259.55
-----------------------	--	----------

Payment arrangements or payment information? In Pa. call toll free
1 800-700-8297; out of Pa. call 1 800-700-8297. All other calls or
questions, in Pa. call toll free 1 800-700-8297; out of Pa. call
1 800-700-8297.Page 6 of 15
814 674-3626-298 73YCentrex Local Calling

February 7, 2003

These are charges for calls not covered by your local calling
option(s). Please refer to the customer guide in your telephone
book for rate information and discounted rate periods.

Listing of your calls	Area	Rate	Calls	Minutes	Cost
	1	Day	451	Untimed	29.33
		Nite/wknd	22	Untimed	1.44
				Subtotal	30.77
				Allowance	-36.00

Total for local calling

\$.00

Call 1 800-700-8297 if you have a question.

(3)



 Page 2 of 6
 814 674-3604-746 11Y
Summary of your account

March 7, 2003

 CAMBRIA HEIGHTS
 SENIOR HIGH SCHL
 506 BEECH AVE
 PATTON PA

16668-1310

Charges from last month

Amount of your last bill..... \$23.96

Payments credited through Mar 10..... -23.96

Amount you still owe \$0.00

Charges for this month

Our charges-See Page 4 \$23.96

Call 1-800-700-8297 if you have a question

Total for this month.....Due Date Apr 2 \$23.96

Total amount due

\$23.96

 A late payment charge of 1.25% applies to any
 balance carried forward to next month's bill.

Continued



 Page 4 of 6
 814 674-3604-746 11Y
Verizon charges

March 7, 2003

This month's charges Monthly charges Mar 7 to Apr 6... \$21.71

Local Number Portability Surcharge. +.23

Federal Universal Service Fund Surcharge... +.62

Pa. Relay surcharge +.15

Public Safety Emergency Telephone Act (9-1-1) Fee +1.25

Total for our charges \$23.96
 Payment arrangements or payment information? In Pa. call toll free
 1 800-700-8297; out of Pa. call 1 800-700-8297. All other calls or
 questions, In Pa. call toll free 1 800-700-8297; out of Pa. call
 1 800-700-8297.





 Page 2 of 6
 814 674-8970-013 17Y
Summary of your account

March 7, 2003

 CAMBRIA CNTY BUS OFC
 C/O PATRICK SHEEHAN
 PO BOX 68
 PATTON PA 16668-0068
Charges from last month

Amount of your last bill.....	\$29.48	
Payments credited through Mar 10.....	-29.48	
Amount you still owe		\$0.00

Charges for this month

Our charges-See Page 4.....	\$29.48	
Call 1 800-479-1919 if you have a question		
Total for this month... ..Due Date Apr 2		\$29.48

Total amount due

\$29.48

 A late payment charge of 1.25% applies to any
 balance carried forward to next month's bill.

Continued



 Page 4 of 6
 814 674-8970-013 17Y
Verizon charges

March 7, 2003

This month's charges	Monthly charges Mar 7 to Apr 6...	\$27.23
	Local Number Portability Surcharge.	+.23
	Federal Universal Service Fund Surcharge...	+.62

Pa. Relay surcharge		+.15
---------------------	--	------

Public Safety Emergency Telephone Act (9-1-1) Fee		+1.25
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Total for our charges		\$29.48
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 Payment arrangements or payment information? In Pa. call toll free
 1 800-479-1919; out of Pa. call 1 800-479-1919. All other calls or
 questions, In Pa. call toll free 1 800-479-1919; out of Pa. call
 1 800-479-1919.



verizonPage 2 of 20
814 344-8506-678 49YSummary of your account

February 25, 2003

CAMBRIA HGT SCHL DST
510 BEECH AVE
PATTON PA 16668-1310Charges from last month

Amount of your last bill.....	\$610.45	
Payments credited through Feb 28.....	-.00	
Amount you still owe ...Due Immediately		\$610.45

Charges for this month

Our charges-See Page 4	\$648.83	
Call 1 800-700-8297 if you have a question		
Total for this month....Due Date Mar 24		\$648.83

Total amount due

\$1,259.28

A late payment charge of 1.25% applies to any
balance carried forward to next month's bill.

Continued

verizonPage 4 of 20
814 344-8506-678 49YVerizon charges

February 25, 2003

This month's charges	Monthly charges Feb 25 to Mar 24 .	\$525.63
	Local Number Portability Surcharge .	+4.14
	Federal Universal Service Fund Surcharge ...	+5.66
	Additional charges ..See Page 5	+7.63
	Local callingSee Page 8	+80.18
	Verizon tollsSee Page 8	+0.00

Directory assist.	2 calls in 814 area code @ .57ea	+1.14
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Pa. Relay surcharge		+1.95
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Public Safety Emergency Telephone Act (9-1-1) Fee		+22.50
---	--	--------

Total for our charges		\$648.83
-----------------------	--	----------

Payment arrangements or payment information? In Pa. call toll free
1 800-700-8297; out of Pa. call 1 800-700-8297. All other calls or
questions, in Pa. call toll free 1 800-700-8297; out of Pa. call
1 800-700-8297.**verizon**Page 6 of 20
814 344-8506-678 49YLocal calling

February 25, 2003

These are charges for calls not covered by your local calling
option(s). Please refer to the customer guide in your telephone
book for rate information and discounted rate periods.

Listing of your calls	Area	Rate	Calls	Minutes	Cost
	1	Day	26	Untimed	1.89
		Nite/wknd	3	Untimed	.20
		Subtotal			1.89
		Allowance			-.00

⑥

Continued

Page 2 of 11
814 247-8828-681 70YSummary of your account

February 25, 2003

CAMBRIA HGTS SCHOOLS
506 BEECH AVE
PATTON PA 16668-1310Charges from last month

Amount of your last bill.....	\$69.85
Payments credited through Feb 26.....	-.00
Amount you still owe ... Due Immediately	\$69.85

Charges for this month

Our charges-See Page 4	\$73.39
Call 1 800-700-8297 if you have a question	
Total for this month.... Due Date Mar 24	\$73.39

Total amount due

\$143.24

A late payment charge of 1.25% applies to any
balance carried forward to next month's bill.

Continued

Page 4 of 11
814 247-8828-681 70YVerizon charges

February 25, 2003

This month's charges	Monthly charges Feb 25 to Mar 24 .	\$45.17
	Local Number Portability Surcharge .	+.46
Federal	Universal Service Fund Surcharge...	+1.24
	Additional charges .. See Page 6	+.87
	Local calling See Page 7 ...	+17.04
	Verizon tolls See Page 8	+.00

Pa. Relay surcharge

+.30

Public Safety Emergency Telephone Act (9-1-1) Fee

+2.50

Taxes

Federal	\$1.95	State	\$3.86	+5.81
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Total for our charges

\$73.39

Continued

⑦



814 344-2117-582 20Y

Summary of your account

January 25, 2003

CAMBRIA HGT SCHL DSI
510 BEECH AVE
PATTON PA 16668-1310

Charges from last month

Amount of your last bill..... \$30.64
Payments credited through Jan 28 -30.64
Amount you still owe \$0.00

Charges for this month

Our charges-See Page 4 \$29.39
Call 1 800-700-8297 if you have a question
Total for this month.....Due Date Feb 20 \$29.39

Total amount due

\$29.39

A late payment charge of 1.25% applies to any
balance carried forward to next month's bill.

Continued



Page 4 of 10
814 344-2117-582 20Y

Verizon charges

January 25, 2003

This month's charges Monthly charges Jan 25 to Feb 24 . \$23.46
Local Number Portability Surcharge . +.23
Federal Universal Service Fund Surcharge... +.62
Additional charges ..See Page 5 +.27
Local callingSee Page 6 +2.60

Pa. Relay surcharge +.15

Public Safety Emergency Telephone Act (9-1-1) Fee +1.25

Taxes

Federal \$.81 +.81

Total for our charges \$29.39

Payment arrangements or payment information? In Pa. call toll free
1 800-700-8297; out of Pa. call 1 800-700-8297. All other calls or
questions, in Pa. call toll free 1 800-700-8297; out of Pa. call
1 800-700-8297.



Page 6 of 10
814 344-2117-582 20Y

Local calling

January 25, 2003

These are charges for calls not covered by your local calling
option(s). Please refer to the customer guide in your telephone
book for rate information and discounted rate periods.

Listing of your calls	Area	Rate	Calls	Minutes	Cost
	1	Day	12	Untimed	.78
		Nite/wknd	28	Untimed	1.82
		Subtotal			2.60
		Allowance			-.00

Total for local calling

\$2.60

Call 1 800-700-8297 if you have a question.

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FAX COVER SHEET

To: Jaime L. Terraciano, Initial Reviewer
SLD

Fax: 973-599-6523

From: Currie A. Sutton

Date: 5-7-2003

Pages: 1 (Including Cover)

RE: Cambria Heights School District, Application No. 340796

FRN 940781

Per your recommendation, please change the category of service from Telecommunications Services to Internet Access.

FRN 940773

The \$8.77 in additional charges shown on the documentation submitted April 16, 2003 is :

\$7.63 -	Late charge
\$.87 -	Late charge
\$.27 -	.25 is FCC non-prescribed line, .02 adjustment change in rate

Currie A. Sutton, email: curries@ameritech.net
Tel: 216.682.0169 Fax: 216.514.3337

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EXHIBIT B



Concurrent Technologies Corporation

2576

CTCnet™

100 CTC Drive Johnstown, PA 15904-1935

Direct Dial Number (814) 269-2439

FAX: (814) 269-2435

BILLING NUMBER: 0017
INVOICE NUMBER: FY2003020222

INVOICE DATE: 26-Dec 2002
TERMS: NET 30

BILL TO:

CAMBRIA HEIGHTS SCHOOL DISTRICT
PO BOX 66
506 BEECH AVENUE
PATTON PA 16668
ATTN: JAMES SHEEHAN

REMIT TO:

CONCURRENT TECHNOLOGIES CORP.
100 CTC DRIVE
ATTN: ACCOUNTS RECEIVABLE
JOHNSTOWN PA 15904-1935

CONTRACT NUMBER: RA DTD 11/12/97
PROJECT NUMBER: 00370.1.050

PAID JAN 2 2003

SERVICE PROVIDED T1 FRAME RELAY

JAN-MARCH 2003	\$1,290.00
CLIENT CONTRIBUTION PERCENT	44%
TOTAL INVOICE (\$)	\$567.60

(1444) 187220
(2717) 189220
(1445) 189220

If this invoice is not paid within 30 days a late charge equal to 1.5% per month will be assessed

-E-rate Only-

FRN NUMBER:	752053
471 NUMBER:	471# 285566

13

CTC Proprietary

Report: C:\unproptu6\0\Reports\BILLING\Unproptu6\CTC NET INVOICES.txt

CTCnet™ is a service mark of Concurrent Technologies Corporation.

EXHIBIT C

ID:814-674-5411

MAR 26 '03

9:24 No.001 P.02

PURCHASE ORDER NUMBER		PAGE NUMBER		
215949	3576697	01-Jan-03	4546	
		1		
SERVICE FROM	SERVICE TO	TELEPHONE NO.	DESCRIPTION	AMOUNT
			Previous Balance	0.00
			Credits Since Last Invoice	0.00
			Recurring Charges:	
			Department:	
01-Jan-03	31-Mar-03	567-2107	Numeric Display Paging <i>Gregory</i>	29.54
01-Jan-03	31-Mar-03	567-2375	Numeric Display Paging <i>Turpak</i>	29.54
01-Jan-03	31-Mar-03	567-2756	Numeric Display Paging <i>Shilling</i>	29.54
01-Jan-03	31-Mar-03	567-8437	Numeric Display Paging <i>Edm.</i>	29.54
01-Jan-03	31-Mar-03	567-8478	Numeric Display Paging <i>middle</i>	29.54
01-Jan-03			Total New Charges	147.70
			New Balance	147.70
Don't miss the Phonepower newsletter at www.ppower.com/newshol2002.htm Do we have your Email address?				
144.5 = \$ 88.62 1444 = \$ 59.08				
or billing inquiries, please call Jeanette at 814-940-0527 or 1-877-505-0527.				

CURRENT	30 DAYS	60 DAYS	90 DAYS	120 DAYS & OVER	PLEASE PAY THIS AMOUNT
147.70	0.00	0.00	0.00	0.00	\$ 147.70

PHONEPOWER, INC.®

(EIN# 51-0224177)

1715 Sunnyside Street
Albion, PA 16401

171 N. Main Street
Cumberland, MD 21502

702 North Street
Harrisburg, PA 17101

A FINANCE CHARGE OF 3.1/2% PER MONTH, WHICH IS AN ANNUAL PERCENTAGE RATE OF 3.1/2%, WILL BE ADDED TO BALANCES REMAINING UNPAID BY THE 22ND OF THE MONTH IN WHICH BILLED CHECKS RETURNED TO US BY OUR BANK 10% AND REASON WILL RESULT IN A CHARGE TO YOUR ACCOUNT IN THE AMOUNT OF \$1.00 TO COVER BANK AND HANDLING CHARGES.

SEE REVERSE FOR INVOICE EXPLANATION

VISIT US ON THE INTERNET AT www.ppower.com

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